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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,313	05/09/2005	Joseph B Kejha	1411P	9799

7590 12/20/2007
Zachary T Wobensmith III
7746 101st Court
Vero Beach, FL 32967-2871

EXAMINER

WEINER, LAURA S

ART UNIT	PAPER NUMBER
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1795

MAIL DATE	DELIVERY MODE
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12/20/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/534,313

Applicant(s)

KEJHA ET AL.

Examiner

Laura S. Weiner

Art Unit

1795

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 11-5-07 have been fully considered but they are not persuasive. Applicant argues that Xue teaches that the Li_2CO_3 is only present in the anode or electrolyte but Xue teaches that the Li_2CO_3 can be present also in the cathode. Endo et al. teaches that it is known to have a lithiated cathode and a lithium compound additive such as Li_2CO_3 . Zhang teaches that it is known to have a lithiated cathode, LiCoO_2 and a lithium additive.

Claim Rejections - 35 USC § 102

Claim Rejections - 35 USC § 103

2. Claims 1-6, 10 are rejected under 35 U.S.C. 102(b) / (e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Barker (WO 01/13443)(6, 468,695).

Barker ('695) teaches on page 9, lines 21-49, a cathode electrode comprising 72.6 LMO, 0.3 lithium carbonate (Li_2CO_3) additive, 3.0 carbon, 7.5 binder and 16.7 plasticizer. Barker teaches that the carbon was Super P carbon and the binder was Kynar Flex 2801 binder (PVDF-HFP). Barker teaches in column 8, lines 1-4, that LiMn_2O_4 (LMO), LiCoO_2 or LiNiO_2 can be used.

Art Unit: 1795

Since Barker teaches the same cathode material comprising LiCoO_2 , the same Li_2CO_3 additive, Super P carbon, PVDF-HFP and a plasticizer then inherently the same cathode would contain an additive which reduces or eliminates initial irreversible capacity loss of said cells must also be obtained.

In addition, the presently claimed property of a cathode containing an additive which reduces or eliminates initial irreversible capacity loss of said cells would have obviously have been present once the Barker product is provided. *In re Best*, 195 USPQ 433 (CCPA 1977).

3. Claims 1-3, 5-6, 10 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Xue (5,928,812).

Xue teaches in column 8, a cathode comprising 64.7 wt% of LiMn_2O_4 , 2.0% Li_2CO_3 , 12.2 wt% PVDF-HFP, 5 wt% carbon black and 16.1 wt% plasticizer.

Since Xue teaches a lithiated cathode material and the same Li_2CO_3 additive then inherently the additive which reduces or eliminates initial irreversible capacity loss of said cells must also be obtained.

In addition, the presently claimed property of an additive reducing or eliminating initial irreversible capacity loss of said cells would have obviously have been present once the Xue product is provided. *In re Best*, 195 USPQ 433 (CCPA 1977).

4. Claims 1-3, 5-6, 10 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Endo et al. (6,022,641).

Endo et al. teaches in column 2, incorporating a specific amount of an alkali metal carbonate 0.5-20% by weight into the cathode comprising manganese oxide or lithium-manganese complex oxide is known. Endo et al. teaches in columns 7-8, Examples 1-4, a cathode comprising lithium-manganese composite oxide, Li_2CO_3 , a conductive graphite material, a binder of polyvinylidene fluoride and dimethylformamide.

Since Endo et al. teaches a lithiated cathode material and the same Li_2CO_3 additive then inherently the same additive which reduces or eliminates initial irreversible capacity loss of said cells must also be obtained.

In addition, the presently claimed property of an additive reducing or eliminating initial irreversible capacity loss of said cells would have obviously have been present once the Endo et al. product is provided. *In re Best*, 195 USPQ 433 (CCPA 1977).

5. Claims 1-3, 5-6 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Zhang (US 2002/0119375).

Zhang teaches on page 4, Example II, a cathode comprising LiCoO_2 treated with various amounts of LiBO_2 . Example II, teaches having amounts of 0.1 wt% LiBO_2 and 0.15 wt% LiBO_2 .

Since Zhang teaches the same cathode material comprising LiCoO_2 and a lithium compound additive then inherently the same additive which reduces or eliminates initial irreversible capacity loss of said cells must also be obtained.

In addition, the presently claimed property of a cathode containing an additive which reduces or eliminates initial irreversible capacity loss of said cells would have obviously have been present once the Zhang product is provided. *In re Best*, 195 USPQ 433 (CCPA 1977).

Conclusion

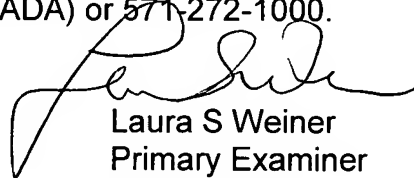
6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura S. Weiner whose telephone number is 571-272-1294. The examiner can normally be reached on M-F (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Laura S Weiner
Primary Examiner
Art Unit 1795

December 12, 2007